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SERVICE DATE - NOVEMBER 19, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35970

TOLEDO, LAKE ERIE & WESTERN RAILWAY AND MUSEUM, INC.—
OPERATION EXEMPTION

Decided: November 18, 2015

On October 23, 2015, Toledo, Lake Erie & Western Railway And Museum, Inc. (Toledo), filed a verified notice of exemption under 49 C.F.R. § 1150.31 to operate a 10-mile rail line between a point of connection with Norfolk Southern Railway Company's (NSR) trackage at milepost 15 in Waterville, Ohio, and the end of the line at milepost 25 in Grand Rapids, Ohio (the Line). Toledo, which owns the Line as a noncarrier, states that service has been provided under a lease by Midwest Rail, LLC d/b/a Toledo, Lake Erie and Western Railway (TLEW), authorized by the Board in Midwest Rail—Lease & Operation Exemption—Toledo, Lake Erie & Western Railway & Museum, Inc., FD 35555 (STB served Oct. 14, 2011). Toledo states that TLEW has ceased providing service and that Toledo now seeks to operate as a common carrier over the Line.

Toledo's notice requires further explanation. Based on a recent verified notice of exemption in Norfolk Southern Railway—Discontinuance of Service Exemption—in Lucas County, Ohio, AB 290 (Sub-No. 377X) et al. (STB served June 1, 2015), NSR and TLEW obtained exemptions for NSR to discontinue rail service and for TLEW to discontinue lease operations between milepost TS 13.2 near Maumee, Ohio, and milepost TS 15 at Waterville (Maumee Segment). The Maumee Segment appears to be the Line's only connection to the interstate rail network. See Midwest Rail—Lease & Operation Exemption—Norfolk S. Ry., FD 35634, slip op. at 2 (STB served June 29, 2012). NSR's and TLEW's discontinuance exemptions became effective on July 1, 2015. In light of those exemptions, it is unclear how Toledo would interchange traffic or reach the rest of the interstate rail network to provide common carrier service over the Line.

Toledo will be directed to clarify how it would provide common carrier service if the demand for such service arises and to submit any information pertaining to its ability to interchange traffic at Waterville. NSR is invited to comment if it wishes to do so. The Board will direct Toledo to submit its supplement, and will invite NSR to comment, by December 9, 2015. In the meantime, this proceeding is held in abeyance pending further Board order.

It is ordered:

1. This proceeding is held in abeyance pending further Board order.

2. Toledo is directed to file the supplemental information identified in this decision, and NSR is invited to comment, by December 9, 2015.

3. A copy of this decision will be served on NSR.

4. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.